

Haines Borough Address #2 - 9/8/2015
regarding
Minor Offense Ordinance No. 15-06-413

Mayor Hill, Borough Manager, and may it please the Haines Borough Assembly,

It's not about what you think:

While exploring the Borough website regarding this proposed ordinance regarding the new "Minor Offense" category of law, I found what I believe to be an unintentional yet artfully deceptive claim that easily misleads the public into ignoring this change in our Code as something insignificant:

"The items on the DRAFT list DO NOT represent new rules or new violations. The items on the list are taken from EXISTING code and placed on ONE LIST to make the violations more visible to the public" - (*1).

And the website relates the intended "listing" of existing violations as a mandate from the January 22, 2013 Supreme Court ruling #1797 (*2), strongly suggesting to us that this ordinance is simply a State-required administrative format change to "table" or "menu" the existing Borough rules according to constitutionally lawful court procedural-policy changes.

If this were actually true I would not be here today. What do I care about administrative tables and columns and files? But this ordinance goes way beyond tabling existing rules. In fact this ordinance so profoundly alters our existing Home Rule government that the "required tabled offenses" used to sell it to the people is actually the "pork of the bill" rather than the substance. It's not about the lists of this ordinance; it's about everything else.

Again, let me make clear that I am not yet convinced that the members of the Assembly are intentionally hiding this subversion from the public, but are unknowingly ceding our rights of self-government indirectly to the European Courts by allowing an unelected attorney to remake our code with a lackadaisical administrative oversight that assumes he has our borough's best interest in heart. But ignorance is no excuse regarding the outcome. Therefore it is my intention in this address to walk through the specific main-points of this ordinance that actually strips the Constitutionally protected rights from the Haines Borough people on a grand foundational scale, and by the revealing information, encourage the Assembly to recognize the danger of this ordinance and act accordingly. Yet like removing cancer once spread; it has already become very complex to identify and separate deadly corruption from healthy-- even problematic but tolerable-- policy. In this late stage, that complexity is great, but I will at least attempt to streamline the general description for a positive and simplistic identification of the political cancer of this ordinance that cannot be allowed to survive.

Changing the nature of Laws, and then changing our Rules into those Laws:

The Borough website states;

"The attorneys drafted this ordinance with the goal of changing as little of the current Code as possible." - (*1).

And suddenly I found myself asking; If that's the case, then what is so "necessary" about the repealment and Reenactment of the whole of Chapter 1.24?

And by exploration I found that it seems to parallel the repealment and Reenactment of the State Court Rules that change some "Crime rules" into "Minor Offence rules" in the aforementioned Order No. 1797 that is said to also mandate this local change.

“District Court Criminal Rules 8, 8.1 and 8.2 are renamed and renumbered as Minor Offense Rules 1-22 as follows...” - (*2).

Parallel to the fundamental changes at our Federal level, Something alarmingly large is changing at the State level that also requires such a foundational change of local ordinances. And in that light I asked; What is so “necessary” about the first line-item change to our local ordinance?:

- **“Every act prohibited by city [Borough] ordinance is (now) unlawful” (proposed 1.24.010),** changed from;
 - **“...any person failing to abide by any provisions or failing to comply with any of the mandatory requirements of this code is guilty of a violation...” (existing 1.24.010).**

Has anyone asked why the original writers of this Charter chose to word this in such a complex way, seeming to intentionally and laboriously avoid claiming that the ordinance code was law? So why is it “necessary” to change this to declare that we are now violating the law?

The Borough website goes further in explaining just what this new approach actually means:

- **“What will change (with this ordinance) is the method of enforcement, and in some cases, the penalties for violations. Some violations of Borough law [not law] that are currently “administrative” in nature would become “minor offenses” (now law). The practical difference is that the former is handled by Borough staff (and the Assembly on appeal), and the later will be handled by the court. ...” - (*1) underlines added.**

None of this is minor.

If the method changes, and the penalties change, and a case of infraction is now handled by a foundationally different authority, the only thing left to change is the list of specific violations... which very nature is also changed from infraction of local rules to breach of law... and the *nature* of that law has also been changed by the Court from what used to be openly called crime, but is now “crime without rights.” You don’t suppose that having changed virtually everything but the actual listed violations themselves, the next Assembly will choose to change those too, under this new form of law? or maybe more likely; being now law and therefore in the State’s domain of jurisdiction, the State Courts will be the ones to next mandate a change of the listed borough “laws” to suit their own will and design, which itself is mandated unlawfully by European courts through unlawful treaties by a corruption of the Presidency (*3), who like you, cedes our inalienable rights to others by unconstitutional allegiance to the nongoverned. Since it is well known and universally understood that the Supreme Court cannot write law, I feel that there is no need to site the Federal and State Constitutions on that matter. So if it wasn’t the U.N. Courts, and it wasn’t the U.S. Courts, then who exactly commanded you to change this ordinance? (*4).

If this ordinance is passed, what used to be an “in house” issue of self governance within our Constitutional Home Rule community, has, first; been changed from violation of rules to a legal issue of law, and then, in that new form, is sent outside of our jurisdiction into the authority of the State courts that try issues of law... and there-- without the writ of *Habeas Corpus* (*5,6a), without a jury of our peers (*6b), and without state supplied council (*7)-- there are consequences of penalty above the Alaska Constitutional maximums for denying a jury trial for civil offenses (*8) presumably because they now fall under the magical realm of “Minor Offense Laws” that constitutionally don’t exist, but by a ceded-authority Police State sure seem to. I quickly found no less than 52 direct “tabled fines” that already exceed the maximum allowed by the Alaska Constitution for such a transformed setting. And that does not take into account the compounding daily increases, the added surcharges, court costs, etc. What do you propose to do about that once these infractions of rules become infractions of law and subject to the courts, which are constrained by Alaska State constitutional boundaries?

So how does the Borough explain this dramatic alteration of our home-rule foundations? The website continues:

“We view this as a tremendous benefit to both the Borough and the person accused of the violation because a court is the best forum to adjudicate whether a violation occurred and to impose penalties, not city hall and the Assembly chambers.” - Underline added (*1).

Has anyone asked what the founders of our *Home Rule* Borough had in mind when they established this Charter that clearly provided the opposite opinion on just who is best suited for that job? Why do you suppose that they didn't think that dragging our people to a State Court over local matters was a good idea?

Let me help answer that: It's because, as it has long stood in our present Charter; breaking our local code is not a crime. It's not a breach of the law (in spite of the fact that the borough website seems to think it is), and therefore it's not a case for the Courts to adjudicate. Rather, it's an infraction of the local rules of social conduct put forward by an Assembly of elected local residence and accepted by a vote of the governed, and therefore, the Assembly are more likely to judge in a manner common with our unique local traditions and lifestyles. And if not, we the people have the direct ability to vote them out of office and elect those who's values and ideas of lifestyle are more like our own. Because IT'S OUR BOROUGH! We make the rules in our own borough. That's one of the points that makes this non-European nation so special!

American Courts don't adjudicate infractions of local rules. Does a father take his son to court if he doesn't take out the trash? Maybe if he changed the word “Chores” to “Laws” he could! And maybe both the son and the father would *view this as a tremendous benefit to both*, but that very statement is missing the point of even why it seems that way to them. Such a change of mindframe reveals a breakdown in the family relationship that desperately needs to be addressed. It seems that the Borough government thinks the people are rebellious, and perhaps the people think the government is tyrannical. This is not a good relationship!

So speaking to the Assembly; Is our entire borough-- or even just our local community-- so full of lawless anarchy of Alaskan tradition, customs, and lifestyles, that we need to make this foundational change in governance that brings in The Big Dog? I don't see it even close. We really have a wonderful sleepy and friendly community, and that, even including our “family” contentions of dramatic lifestyle differences and values now arriving from outside, as well as created by consolidating the City and the Borough into a single governance of lifestyle. The far more reasonable solution would be Redistricting rather than turning over our adjudicating powers to the Courts of law (See I Corinthians 6:4-7). But I don't yet see the need of even redistricting.

If my “City Hall” is so corrupt and/or antagonistically wrong-headed that I can't get a reasonable “verdict” from them-- and accept it as just, then its not time to take it to the court; it's time to revamp either City Hall or my way of thinking. This is an In House matter for the community to determine, not a matter for the Courts!

And to be honest, my first contemplation on this line is questioning if the City Hall's rules of conduct are not already too restrictive and arbitrary and entirely too focused on more income, thus encouraging both rebellion (Ephesians 6:4) and an overstuffed docket of frivolous and unnecessary cases to review and adjudicate, which our own Preamble and Bill of Rights guarantees to prevent:

“the right to enjoyment of (normal local life) without unnecessarily restrictive or arbitrary laws or regulations.”

If the City Hall has a whole stack of similar violations (such as ticketing 75 cars parked along the road for a basketball game) it's a good indicator that the people do not like the rule. The rule should change, or at least be administratively momentarily waved in good faith. It's your job to hear the people, not bring in the Court to make us comply to a nanny-State governance of external values.

I already have a whole long list of substantial complaints regarding many of the specific listed infractions being unnecessarily restrictive or arbitrary, but that argument must be postponed for a separate address another time. What we are addressing here is the very nature and purpose of a Home Rule governance, and *that* is more important today than at any time in Alaska's history. We are talking directly about the last of our diminishing freedoms; the right of democratic defense against a rogue government that now wants to rule us. In our borough we call this defense Home Rule, in court we call this Trial by Jury. This Assembly is about to ignorantly deny us both, because; "That's what our attorney wrote"? I'm not buying it.

In keeping with the motives of the State Constitution, in keeping with the same in the Federal; our wise body of Home Rule community-makers diminished only those rights required to maintain the minimalist order necessary for the local people to "keep from killing each other." After all; It's the people's community to live as they collectively like and are commonly used to living. But yes, we do need basic rules that all can easily see as worthy, and comply with, as a common politeness to our neighbors who have as much rights as we do to expect to be safe and secure in our community. Just don't forget that the Borough of Haines is a very unique place, and in the Alaska State Constitution it grants us the autonomy of maintaining our uniqueness (*9). And in the Preamble of our Borough Charter we specifically retain that right to be a special community with our odd customs and lifestyles that define us, even different than anywhere else in the State or Country. Reformation is the job of the Church, without the force of law. Don't attempt to "reform" us with your lifestyle-changing ideas as laws; like turning us all into a Californian neighborhood absent of junk cars and useful odds in the yard that, because of our rural location and lack of ready money, have great "spare parts" value as a way of life. This is Haines, in rugged Alaska, and except for extreme and abnormal cases that may need to be addressed from time to time; we live this way on purpose because it makes us happy and/or independently secure. And THAT right is actually spelled out as the lawfully protected and retained rights of the people of the Haines Borough, the People of Alaska, and the people of the United States of America.

Rule 1 of Order #1797 seems to want to take that away (*10), but it can do so only if we voluntarily change our rules into Minor Offenses as this ordinance is want to do.

More Danger still:

Now that you grasp the significance of what this changed ordinance is attempting to do, and that the Alaska Supreme Court is complicit with this alteration of our American and uniquely Alaskan rights of life liberty and the pursuit of happiness through our borough self-regulation, and seeing too the now lawless insanity of all three branches of our Federal and State Governments on a nation-destroying scale; allow me to combine a few specifics of this ordinance that drives the point home sharply.

By denying us the right of *Habeas Corpus* both in the Superior Court Rules and in the proposed Borough Ordinance (*5,6a), there now needs to be virtually no evidence or proof that we are guilty of what we are accused of. Add to that the ability of the accuser to declare probable cause without providing a shred of evidence, combined with an accusation that the accused thought he was about to do something unlawful, and we arrive at a determined guilt for any and everything imagined by the accuser.

The accuser: "*Your honor, I have reason to believe that this citizen intended to fish without a license.*"

The Judge: "*By the authority provided by law and this Charter, I find the defendant Guilty as charged!*"

By this ordinance, it does not matter that the accused doesn't even own a fishing pole, or a boat, and wasn't anywhere near the water, the accuser has stated his statement of probable cause based on his imagination of what the perpetrator was thinking, and according to the combined acts of this ordinance, that is good enough for a guilty verdict of a presumed bad thought that has not even the possibility of fulfillment! (*5c). You think I am mocking this legislation because you would never take these ordinances to such extremes. But by your actions today these will be the ordinances well entrenched in another five years. Who and what will be on the Assembly at that time...Muslims? If you are willing to toss over the values of those who gave

us this Charter of Home Rule, then why will the next generation not be willing to toss over your values while lawfully using these ordinance elements that you enacted “with good intentions”?

Perhaps completely outside of your awareness, these changes are not intended for application today but for what they can be made to do tomorrow. This is a bad ordinance on a foundational level. And it’s not good enough to delete the few lines of the ordinance that I used to make a point. DO NOT re-class our Borough rules into “Minor Offenses,” because State Jurisdiction comes with the name that they created and govern by their lawless Rules (*11).

For the most part, the people trust you, much like you trust your attorney, much like he trusts the Courts. In good-will faith, the people naturally allow you administrative powers that you feel are necessary. This ordinance is sold to them as administrative, but is foundationally destructive to our Home Rule governance and the people’s rights. Therefore, on behalf of the Haines Borough People, I urgently request that the Assembly withdraw this proposed ordinance even before it goes to vote. It’s the responsible thing to do.

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Footnotes:

(*1) <http://www.hainesalaska.gov/boroughassembly/minor-offenses-ordinance> - accessed 9/3/2015.

(*2) <http://courts.alaska.gov/sco/sco1797.pdf> - accessed 9/3/2015.

(*3) **Jose’ Ernesto Medellin vs. Texas, 552 U.S. 491 (2008) (No. 06-984)** “is a United States Supreme Court decision that held that even if an international treaty may constitute an international commitment, it is not binding domestic law unless Congress has enacted statutes implementing it or unless the treaty itself is “self-executing.” Also, the Court held that decisions of the International Court of Justice (U.N.) are not binding domestic law and that, without authority from the United States Congress or the Constitution, the President of the United States lacks the power to enforce international treaties or decisions of the International Court of Justice.”

(*4) I have searched the whole of Order No. 1797 and so far I find no mandate to change Borough code, as declared in Haines Borough Agenda Bill No. 15-576 as well as on the Haines Borough Website.

(*5) Supreme Court Order No. 1797, Rule 3(f)

- **“The officer must state on the citation that the officer has probable cause to believe the defendant committed the offense but need not state the grounds for the probable cause determination beyond the essential facts.”** - Supreme Court Order No. 1797, 3(f).

and Haines Borough proposed Ordinance 15-06-413:

- **“Every person who attempts to commit a minor offense but fails or is prevented or is intercepted in its perpetration is guilty of a minor offense and shall be punished in the manner prescribed for the infraction itself.”** - proposed ordinance 1.24.060 A.
- **“...it is not a defense to charge that it was factually or legally impossible to commit the offense allegedly attempted if the conduct engaged in by the defendant would be an offense had the circumstances been as defendant believed them to be.”** - proposed ordinance 1.24.060 B.

(*6) Haines Borough proposed Ordinance 15-06-413:

- **“...On application for injunctive relief and a finding of...threatened violation, the superior court shall grant the injunction.”** - proposed ordinance 1.24.101 B.
- **“As a minor offense, trial is by the court without a jury...”** - proposed ordinance 1.24.030.

- (*7) Haines Borough proposed Ordinance 15-06-413:
 - **"...and there is no right to court-appointed defense counsel."** - proposed ordinance 1.24.030.
- (*8) Alaska Constitution Article 1 Section 16:
 - **"In civil cases where the amount in controversy exceeds two hundred fifty dollars, the right of trial by a jury of twelve is preserved to the same extent as it existed at common law (i.e. crime)."**
- (*9) Alaska Constitution Article 10 Section 3:
 - **"Each borough shall embrace an area and population with common interests to the maximum degree possible."** - Underline added.
- (*10) Supreme Court Order #1797:
 - **"These rules govern the procedure in cases involving minor offenses..."** - Rule 1. Scope, Purpose and Construction.
- (*11) Haines Borough proposed Ordinance 15-06-413:
 - **"...is guilty of a minor offense as that term is defined in the Alaska Rules of Minor Offense Procedures..."** - proposed ordinance 1.24.010 A.

Respectfully and sincerely submitted this 8th day of September in the year of our Lord 2015,
 (With current global trending we have a new reason to define just which calendar we are using and why),

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c.c. via email 9/8/2015:

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